IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/07/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.3319 OF 2001

M. Revathi,
W/o. P.G. Mathialagan .. Petitioner

-Vs-

1. Society For Applied Microwave
Electronics Engineering And
Research (SAMEER),
(represented by Director),
IIT Campus, Mumbai 400 076.

2. Society for Applied Microwave
Electronics Engineering And
Research Centre Centre for
Electro magnetics,
(represented by Project Director),
C.I.T. Complex, Tharamani,
Chennai 600 113.

3. Secretary to Government of India,
Ministry of Information Technology,
New Delhi. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.G. Narayanan
Senior Counsel for
Mr.G.N. Sridharan

For Respondents 1-2 : Mr.A.L. Sampath

Respondent - 3 : Mr.K. Mohanram, SCGSC.,

:J U D G M E N T

The petitioner has challenged the legality of the order dated 9.3.2000, imposing punishment of reduction in pay scale, which has been confirmed in the appeal on 2.5.2000.

2. The brief facts are as follows :-

The petitioner who was working under the second respondent had applied for availing Leave Travel Concession in November, 1998 and had purchased tickets. However, subsequently due to illness of the husband of the petitioner, journey was cancelled. However, the forms were submitted by the petitioner relating to claim of LTC even though the journey had been cancelled. When a query was raised, the mistake was realised by the petitioner and the amount drawn was refunded with interest. Subsequently, a memo of charges was issued and in the reply, petitioner indicated that due to agony and anxiety she has lost her mind and has mechanically filled-up the papers. Subsequently, a show cause notice was issued as to why the petitioner should not be reduced to the lower post of scientific officer and even though an explanation has been furnished, the impugned order was passed. The appeal filed having been rejected, the present writ petition has been filed.

3. Learned senior counsel appearing for the petitioner has contended that no formal enquiry was conducted and if an enquiry would have been conducted, the petitioner would have adduced evidence to show that the claim for LTC has been made in a state of agony and anxiety. It has been further indicated that the punishment imposed appears to be grossly disproportionate and at any rate without considering the relevant factors and particularly the fact that prior to the misdemeanor there had been no delinquency on the part of the petitioner has been lost sight of by the disciplinary authority and the order of punishment has been mechanically confirmed by the appellate authority.

4. A counter affidavit has been filed on behalf of the respondents justifying the punishment imposed.

5. A perusal of the materials on record would show that no formal enquiry has been held. It is of course true that the basic allegation has been admitted by the petitioner and the petitioner has furnished explanation stating that it was due to extreme agony and anxiety and due to illness of her husband at the relevant time. If a formal disciplinary proceeding would have been held, the petitioner would have availed of the opportunity to justify her explanation.

6. A perusal of the order passed by the disciplinary authority indicates that such authority has ignored the question of past conduct of the petitioner as irrelevant. This appears to be unjustified as while considering the question of imposition of penalty it cannot be said that the past conduct has got no relevance.

7. Since a formal disciplinary enquiry has not been held and order has been passed without considering all the relevant facts and circumstances, I think it is a fit case where the orders passed by the disciplinary authority and confirmed by the appellate authority should be quashed and the matter should be considered afresh after giving opportunity of hearing to the petitioner to adduce materials in support of her stand. The contention of the learned counsel for the petitioner that the punishment

imposed is grossly disproportionate shall also be considered. The matter should be finalised within a period of four months from the date of receipt of a copy of this order.

8. Subject to the above direction, the writ petition is disposed of. No costs.

Index : Yes
Internet : Yes

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To

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